

David S. Case, P.C.  
 Landye Bennett Blumstein LLP  
 701 West Eighth Avenue, Suite 1200  
 Anchorage, Alaska 99501  
 Telephone (907) 276-5152  
 Facsimile (907) 276-8433  
 E-mail: dcase@lbblawyers.com  
 Alaska Bar No. 7505010

Attorneys for Northwest Arctic Borough

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ALASKA

ENOCH ADAMS, JR., LEROY ADAMS, ) Case No. A04-0049 CV (JWS)  
 ANDREW KOENIG, JERRY NORTON, )  
 DAVID SWAN and JOSEPH SWAN, )

Plaintiff, )

v. )

TECK COMINCO ALASKA )  
 INCORPORATED )

Defendant. )

NANA REGIONAL CORPORATION and )  
 NORTHWEST ARCTIC BOROUGH, )

Intervenor-Defendants. )

**AFFIDAVIT OF THANE W. TIENSON  
 IN SUPPORT OF DEFENDANT-  
 INTERVENOR NORTHWEST ARCTIC  
 BOROUGH'S RESPONSE TO  
 PLAINTIFFS' OBJECTION TO  
 BOROUGH'S UNDISCLOSED EXHIBITS  
 AND WITNESS AND MOTION IN  
 LIMINE TO EXCLUDE EXHIBITS AND  
 WITNESS NOT TIMELY DISCLOSED**

STATE OF OREGON )

COUNTY OF Multnomah )

LANDYE BENNETT BLUMSTEIN LLP  
 701 WEST EIGHTH AVENUE, SUITE 1200  
 ANCHORAGE, ALASKA 99501  
 TELEPHONE (907) 276-5152, FAX (907) 276-8433

I, THANE W. TIENSON, being first duly sworn, upon oath depose and state:

(1) Attached to this Affidavit and marked as Exhibit "A" is a true copy of the Third Amended, Restated Contract for Services (agreement between NAB and Teck Cominco Alaska, Inc. dated 10/17/2003).

(2) Attached to this Affidavit and marked as Exhibit "B" is a true copy of Chapter 6.08 of the NAB Code.

(3) Attached to this Affidavit and marked as Exhibit "C" is a true copy of Title 9 of the NAB Code.

(4) Attached to this Affidavit and marked as Exhibit "D" is a true copy of NAB's 2007 Legislative Priorities.

(5) Attached to this Affidavit and marked as Exhibits "E" and "F" are true copies of e-mail exchanges between attorney Luke Cole and attorney Thane Tienison regarding stipulated facts dated January 22, 2008.

(6) Attached to this Affidavit and marked as Exhibit "G" is a true copy of KRPC's Opposition to Motion to Stay dated April 15, 2003.

(7) Attached to this Affidavit and marked as Exhibit "H" is a true copy of NAB's Motion for Leave to Intervene and Supporting Memorandum of Law dated November 4, 2002.

LANDYE BENNETT BLUMSTEIN LLP  
701 WEST EIGHTH AVENUE, SUITE 1200  
ANCHORAGE, ALASKA 99501  
TELEPHONE (907) 276-5152, FAX (907) 276-8433

(8) Attached to this Affidavit and marked as Exhibit "I" is a true copy of NAB's Reply Memorandum in Support of Motion for Leave to Intervene dated November 27, 2002.

(9) Attached to this Affidavit and marked as Exhibit "J" is a true copy of NAB's Motion for Reconsideration of Order Denying Intervention and Supporting Memorandum of Law and Request for Oral Argument dated January 17, 2003.

(10) Attached to this Affidavit and marked as Exhibit "K" is a true copy of KRPC's Opposition for Leave to Intervene by NAB dated November 13, 2002.

(11) Attached to this Affidavit and marked as Exhibit "L" is a true copy of Plaintiffs' Opposition to Motion for Reconsideration by NAB dated January 29, 2003.

(12) No discovery requests have been propounded to NAB in conjunction with this case, nor did NAB make any disclosures to the other parties in this case prior to January 18, 2008.

(13) For that reason, I, as primary counsel for NAB, did not consider that I had a duty to supplement any disclosures or responses under Fed.R.Civ.P. 26(e).

(14) A mediation in this case was held the week of April 9, 2007 in Kotzebue, Alaska. During that period of time, attorney Cole was introduced to Mayor Whiting of NAB. All of the individual plaintiffs, who live in Kivalina which is part

of the NAB are personally acquainted with Mayor Whiting. She has made numerous trips to Kivalina to speak with them, and most, if not all of the individual plaintiffs have met with and spoken with the Mayor. She will not be testifying as an expert witness.

(15) All four of the documents sought to be admitted by the plaintiffs are public documents to which the plaintiffs and citizens of the Borough have access at any time.

Dated this 5th day of February, 2008, at Portland, Oregon.

/s/ Thane W. Tienson  
Thane W. Tienson

The foregoing affidavit was acknowledged before me this 5th day of February, 2008, by Thane W. Tienson.

/s/ Jeri G. Zwick  
Residing at Portland, Oregon  
My commission expires 5/31/11

LANDYE BENNETT BLUMSTEIN LLP  
701 WEST EIGHTH AVENUE, SUITE 1200  
ANCHORAGE, ALASKA 99501  
TELEPHONE (907) 276-5152, FAX (907) 276-8433

Certificate of Service

I hereby certify that on February 5<sup>th</sup>, 2008, a copy of the foregoing AFFIDAVIT OF THANE W. TIENSON was served electronically on:

Sean Halloran  
Hartig Rhodes Hoge & Lekisch  
717 K Street  
Anchorage, AK 99501  
sean.halloran@hartig.com

Luke W. Cole  
Center on Race, Poverty & the Environment  
450 Geary Street, Suite 500  
San Francisco, CA 94102  
luke@igc.org

James E. Torgerson  
Heller Ehrman White & McAuliffe LLP  
510 L Street, Suite 500  
Anchorage, AK 99501  
jim.torgerson@hellerhrman.com

and on the following by regular U.S. Mail:

Nancy S. Wainwright  
Law Offices of Nancy S. Wainwright  
13030 Back Road, Suite 555  
Anchorage, AK 99515-3538

s/David S. Case  
David S. Case

LANDYE BENNETT BLUMSTEIN LLP  
701 WEST EIGHTH AVENUE, SUITE 1200  
ANCHORAGE, ALASKA 99501  
TELEPHONE (907) 276-5152, FAX (907) 276-8433